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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,673

09/11/2003

Rick McWilliams

33071

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11/22/2005

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EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/660,673	Applicant(s) MCWILLIAMS, RICK	
	Examiner Lee Fineman	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6 September 2005 has been entered in which claim 12 was amended. Claims 1-20 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, 13-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemp, III, US 6,570,506 B2 in view of Hollander et al. US 6,095,682.

Regarding claims 1-7, 13-14, and 16-20, Lemp, III discloses in figs 1-5 a telescope operable to audibly convey information relating to a selected one of a plurality of celestial bodies (column 2, lines 11-14), the telescope comprising a telescopic tube (10 and column 6, lines 51-55) operable to optically magnify the selected celestial body; a processor (52); a memory device storing a database (62) operable to contain information relating to the plurality of celestial bodies including an audio file (in the database) and accessible by the processor (column 9, line 64-

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column 10, line 5); an audio device (column 12, line 29), which is a speaker, operable to convert the audio signal into audible speech, thereby audibly conveying the information in the database relating to the selected celestial body (column 12, lines 10-30); an enclosure (30) integral to the telescope housing the processor, the memory device, the audio device, orientation sensor and display (figs. 2 and 3 and column 12, line 34); an orientation sensor (54, 56) operable to determine an orientation of the tube in order to assist the processor in identifying the celestial body (column 9, lines 5-10); wherein the processor (52) is further operable to generate a video signal (column 10, lines 6-11 or column 11, lines 31-34) in order to visually convey the information relating to the selected celestial body and further including a display (36) operable to convert the video signal into graphics (column 10, lines 6-11, column 11, lines 31-34 or column 12, lines 32-35); wherein the display and the speaker convey substantially identical information (column 12, lines 10-36, in so far as at least the name of the celestial body is substantially identical); wherein the display and the speaker convey substantially different information (column 12, lines 10-36, in at least so far as graphics of the celestial body is substantially different from spoken words). Although Lemp, III implies that the audio signal is converted from a text file (see at least, column 4, lines 64-65, wherein user-inputted data can be announced to the user), Lemp, III does not explicitly state the processor is operable to convert a text file to an audio signal representative of audible speech and further that the audible speech is produced in a selected one of a plurality of languages. Hollander et al. teaches a device operable to audibly convey information that includes a processor (313, 315) operable to convert a text file (measurements results) to an audio signal representative of audible speech (column 9, lines 41-48). It would have been obvious to one of ordinary skill in the art at the time the invention was

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made to have the processor of Lemp, III be able to convert a text file to an audio signal representative of audible speech as suggested by Hollander et al. to provide a less complicated system which is able convert any text into an audio output thereby removing any need for separate audio files. Further, electronic systems wherein audible speech is selected from one of a plurality of languages are very well known. For example, Hollander et al. is also system wherein audible speech (see 315 and 815, figs. 10 and 27) is from selected one of a plurality of languages (column 2, lines 27-30 and column 9, lines 45-48). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Lemp, III include selecting one of a plurality of languages as suggested by Hollander et al. to enable more people to be able to use the system.

Regarding claims 8-10, Lemp, III further includes a base operable to support the tube, a cradle attached to the base and operable to movably secure the tube to the base, and a drive mechanism operable to move the cradle with respect to the base (column 7, lines 5-9); wherein the processor is further operable to align the tube with the selected celestial body using the drive mechanism (column 7, lines 9-12); and a remote control (180) operable to facilitate a user providing the processor with the telescope's location (column 9, lines 57-63).

4. Claims 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemp, III in view of Hollander et al. as applied to claims 1 and 13 above and further in view of Hersh, US 2002/0106617 A1.

Regarding claims 11 and 15, Lemp, III in view of Hollander et al. as applied to claims 1 and 13 above further disclose that the memory device is removable (column 13, lines 29-31;

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plug-in module) but do not explicitly state that the language is selected by choosing a memory device with a text file corresponding to the desired language. Hersh teaches a system operable to audibly convey information that includes removable memory devices and the language being selected by choosing a memory device with a text file corresponding to the desired language (see page 2, section [0024]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the system Lemp, III in view of Hollander et al. include the selected language on the removable memory devices as suggested by Hersh to reduce the amount of usable memory needed in the system and therefore reduce the cost of the system.

Regarding claim 12, Lemp, III in view of Hollander et al. and Hersh as applied to claim 11 above further disclose including a remote control operable to facilitate picking the selected language (Hollander et al.; column 9, lines 41-48, in so far as the remote measurements dictate the language).

### *Response to Arguments*

5. Applicant's arguments, see page 8, line 24 –page 9, line 7, filed 6 September 2005, with respect to the rejection(s) of claim(s) 1, 13 and 20 under 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hollander et al.

6. Applicant's other arguments filed 6 September 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Hollander et al. and Hersh are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, these references are reasonable pertinent to the particular problem with which the applicant was concerned, i.e., a system operable to audibly convey information to a user. Both Hollander et al. and Hersh convey text information to the user in an audible form and in a variety of languages. Therefore the rejections are proper.

7. It is noted by the Examiner that the claim objection made in the previous Office Action have been withdrawn due to amendment by the Applicant.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF

November 14, 2005

  
MARK A. ROBINSON  
PRIMARY EXAMINER